

MIKE BRASSEY, CHAIR
IDAHO PERSONNEL COMMISSION
P. O. Box 83720
Boise, Idaho 83720-0066
Phone: (208) 334-3345

IDAHO PERSONNEL COMMISSION

STATE OF IDAHO

JAY HILL,)	
)	
Appellant,)	IPC NO. 99-14
)	
vs.)	ORDER STAYING THE
)	PROCEEDINGS BELOW AND
DEPARTMENT OF CORRECTION,)	BRIEFING SCHEDULE
)	
Respondent.)	
_____)	

THIS MATTER comes before the Commission on Respondent Department of Correction's (Department) Motion for Stay of the Proceedings Below and Briefing Schedule, which was filed concurrently with the Department's Motion to Dismiss for lack of Subject Matter Jurisdiction on September 30, 1999.

I.

BACKGROUND AND HISTORY

In his original Notice of Appeal, Mr. Hill indicated that he wished to appeal the response of the Department to his request for problem solving. On July 19, 1999, the Department filed a Motion to Dismiss contending that Mr. Hill's grounds for appeal is outside of this Commission's jurisdiction. On August 10, 1999, Mr. Hill filed a response with the hearing officer stating that the issues in the case include discrimination, harassment, intimidation, and inequitable pay.

On August 20, 1999, the hearing officer issued a Decision on Motion to Dismiss and Hearing Scheduling Order acknowledging that the appeal did not involve disciplinary matters. However, the hearing officer asserted jurisdiction over Mr. Hill's appeal on the grounds that the "right and/or benefit" language of Idaho Code § 67-5316(a)(2) encompasses 1) the right to be free from gender discrimination; and 2) the alleged failure of the Department to address the issues raised by Mr. Hill in the Department's decision in response to the problem solving process. The Department now requests that the Commission stay the proceedings below, issue a briefing schedule, and allow oral argument on the issue of the Commission's subject matter jurisdiction over these issues. Pursuant to Commission Rule 15.04.01.202.05(b), motions to dismiss for lack of jurisdiction shall be decided by the Commission.

II.

DECISION AND ORDER

It must be initially noted that it is against the policy and practice of the Commission to hear interlocutory appeals of intermediate decisions made by hearing officers. *Stacey v. Idaho Department of Labor*, IPC No. 95-04 (April 10, 1998). This policy is a logical extension of the legislature's stated intention that the appeal process "be as summary and simple as reasonably may be." Idaho Code § 67-5316(5). The reasons for this policy remain and the Commission will continue to refuse to hear interlocutory appeals relating to non-jurisdictional issues.

However, in this instance, the question of subject matter jurisdiction presents unique circumstances in that substantial time and money could be expended by both parties to this case prior to the opportunity for the Commission to determine this threshold issue. For this reason and in the interest of judicial economy, the Commission has determined that it is appropriate that

it exercise its discretionary power to stay the proceedings below and allow the parties an opportunity to brief the issue of the Commission's subject matter jurisdiction over this matter.

IT IS HEREBY ORDERED that:

1. The proceedings before the hearing officer are stayed pending resolution of the jurisdictional issue.

2. Respondent and Appellant may file briefs not later than November 5, 1999. The briefs shall not exceed twenty (20) pages in length and shall be double-spaced. Either party submitting a brief shall provide an original and five (5) copies.

3. The matter will be scheduled for oral argument on November 19, 1999, at the hour of 10:00 a.m. in Exam Rooms A and B of the Idaho Personnel Commission, 700 West State Street, Boise, Idaho. At the hearing, each party will be given thirty (30) minutes to present oral argument.

DATED this 14th day of October, 1999.

BY ORDER OF THE
IDAHO PERSONNEL COMMISSION

/s/ _____
Mike Brassey, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the ORDER STAYING PROCEEDINGS BELOW AND BRIEFING SCHEDULE in *Hill v. Department of Correction*, IPC No. 99-14, was delivered to the following parties by the method stated below on the 15th day of October, 1999.

FIRST CLASS MAIL

Jay Hill
417 West 280 North
Blackfoot, ID 83221

Dennis A. Love
6613 Orlinda Lane
Idaho Falls, ID 83401

STATEHOUSE MAIL

Ann Heilman
Director
Division of Human Resources
Statehouse Mail

Ronald D. Christian
Deputy Attorney General
Department of Correction
Statehouse Mail

/s/ _____
Val E. Rodriguez